

CHAPTER NO. 686

SENATE BILL NO. 3248

By Burchett

Substituted for: House Bill No. 2849

By Curtiss

AN ACT to amend Tennessee Code Annotated, Title 65, Chapter 31, relative to the "Underground Utility Damage Prevention Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 65-31-105(a), is amended by deleting the first sentence of this subsection, and by substituting instead the following:

Each operator, except operators participating in a one-call service, having underground facilities in a county, including those facilities that have been abandoned in place by the operator but not yet physically removed, shall file a notice with the register of deeds of such county which states that such operator has underground utilities located in that county, the name of the operator and the name, title, address, telephone number and e-mail address (provided the representative has an e-mail address) of its representative designated to receive the written, telephonic or electronic mail (e-mail) notice of intent required by § 65-31-106.

SECTION 2. Tennessee Code Annotated, Section 65-31-106, is amended by deleting the language, "written or telephonic" wherever such language appears and by substituting instead the language, "written, telephonic or electronic mail (e-mail)".

SECTION 3. Tennessee Code Annotated, Section 65-31-106(b), is amended by deleting the language, "and telephone number", and by substituting instead the language, "telephone number and e-mail address".

SECTION 4. Tennessee Code Annotated, Section 65-31-106(b), is amended by deleting in the last sentence of this subsection the language "should" and by substituting instead the language "shall"; and by deleting in the last sentence of this subsection the language, "other marking devices" and by substituting instead the following language:

white paint, unless:

(1) The operator or its agent can determine the precise location of the proposed area of excavation based solely on the street address from a one-call service locate ticket because of the size of the property;

(2) The operator or its agent can determine the precise location of the proposed area of excavation from a one-call service locate ticket which references a driveway or other easily identifiable point on the property and which identifies the property by street address or block and lot number;

(3) The operator or its agent can determine the precise location of the proposed area of excavation from a one-call service locate ticket which identified the property as being located on a street or road between two designed intersections of such street or road and two cross streets or roads when a street address or block and lot number is unavailable or does not apply; or

(4) The person responsible for the excavation or demolition and all operators with underground facilities in the proposed area of excavation have had a meeting prior to the beginning of the excavation or demolition for the exchange of information on the location of the proposed excavation or demolition.

SECTION 5. Tennessee Code Annotated, Section 65-31-106(c), is amended by deleting the language "by telephone" and by substituting instead the language "by telephone or electronic mail (e-mail)".

SECTION 6. Tennessee Code Annotated, Section 65-31-107(a), is amended by deleting the following language:

A one-call service that provides such service on behalf of operators having underground utilities in Tennessee shall file with the register of deeds of the county in which those utilities are located, the telephone number and address of the one-call service, a description of the geographical areas served by the one-call service, and a list of the names and addresses of all operators receiving such service from the one-call service.

SECTION 7. Tennessee Code Annotated, Section 65-31-108(a), is amended by adding the following sentence at the end of this subsection:

In the event more than one operator uses the same color code under this subsection, each operator using the same color shall include a distinctive marking, such as the initials of the operator's name or other marking, which appropriately identifies each operator and sufficiently distinguishes each operator's marking from any other operator authorized to use the same color under this subsection.

SECTION 8. Tennessee Code Annotated, Section 65-31-108, is amended by redesignating subsections (b) through (g) to be subsections (c) through (h) and by adding the following new subsection (b):

(b) Each operator participating in a one-call service which has been notified in accordance with § 65-31-106 shall notify the one-call service that the operator has marked the approximate location of all of its underground utilities as required by this section or that the operator has no underground utilities in the proposed area of excavation. The operator shall provide this notice to the one-call service in accordance with procedures adopted by the one-call service for this notification. This notice shall fulfill the operator's obligation set forth in subsection (e). When each operator notified in accordance with § 65-31-106 has notified the one-call service that its underground utilities in the proposed area of excavation have been marked or that the operator has no underground utilities in the proposed area of excavation, the person responsible for the excavation or demolition may immediately proceed with the excavation or demolition notwithstanding the minimum three (3) working- day notice requirement before excavation or demolition can begin set forth in § 65-31-106(a).

SECTION 9. Tennessee Code Annotated, Section 65-31-102(4), is amended by deleting the language "; or the digging of holes for fence posts on private property" and substituting instead the language "; or the digging of holes for fence posts on private property in any area that is not located within a recorded easement of an operator".

SECTION 10. Tennessee Code Annotated, Section 65-31-111, is amended by adding a new subsection (d) as follows:


(d) The financial impact of all damages to underground utilities shall be calculated using generally accepted accounting principles (GAAP).

SECTION 11. The Tennessee Code Commission is requested to delete the word "Civil" from the heading description of Tennessee Code Annotated, Section 65-31-112, and to substitute instead the word "Criminal".

SECTION 12. This act shall take effect on July 1, 2006, the public welfare requiring it.

PASSED: May 3, 2006


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 18th day of May 2006


PHIL BREDESEN, GOVERNOR